

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF PENNSYLVANIA**

BURCHICK CONSTRUCTION COMPANY, INC.,)	
)	
)	
Plaintiff,)	Civil Docket No. 05-CV-12E
)	
vs.)	
)	
HBE CORPORATION,)	Judge McLaughlin
)	
Defendant.		(Electronically Filed)

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

AND NOW comes Plaintiff, Burchick Construction Company, Inc. ("Burchick") through its attorneys, and pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, moves for Summary Judgment on its affirmative claims against Defendant, HBE Corporation ("HBE"), on the basis that the language of the contracts governing the relationship of the parties together with the application of Pennsylvania's Contractor and Subcontractor Payment Act 73 P.S. § 501 et. seq. ("Prompt Pay Act"), compel that judgment be entered in Burchick's favor and that certain interest, penalties and attorneys' fees be imposed in accordance with the Prompt Pay Act.

In support of this Motion, Burchick relies upon its Memorandum in Support of Motion for Summary Judgment, the Concise Statement of Material Facts with documents attached in the Appendix thereto, which Memorandum, Concise Statement of Material Facts and Appendix have been filed contemporaneously with this Motion and are incorporated herein by reference as if set forth fully herein.

Respectfully submitted,

s/Kurt F. Fernsler
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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Plaintiff's Motion for Summary Judgment this 12th day of December, 2005, electronically via the Court's ECF system:

Michael D. Glass, Esquire
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s/Kurt F. Fernsler